



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/714,510	11/17/2000	Takeshi Miura	Q61857	5024

7590 03/31/2004

Sughrue Mion Zinn MacPeak & Seas PLLC
2100 Pennsylvania Avenue N W
Washington, DC 20037-3213

EXAMINER

NALEVANKO, CHRISTOPHER R

ART UNIT	PAPER NUMBER
2611	3

DATE MAILED: 03/31/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/714,510

Applicant(s)

MIURA ET AL.

Examiner

Christopher R Nalevanko

Art Unit

2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 November 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1 and 7-9 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Billock et al.

Regarding Claim 1, Billock shows a program transmitting/receiving system having a center device and at least one terminal device connected through a communication device to the center device (col. 3 lines 60-67, col. 4 lines 1-15). The center device comprising a program information memory device for storing an information with regard to a program generated on the basis of a schedule to broadcast a program (col. 4 lines 50-67, col. 5 lines 13-67, col. 6 lines 1-30), a program information transmitting device for transmitting the information with regard to the program to the terminal device through the communication device (col. 3 lines 3-34, col. 8 lines 35-55), a broadcasting device for broadcasting the program to the terminal device through the communication device (col. 6 lines 13-51), in accordance with the schedule, and for storing the program therein at a transferable condition to the terminal device, and a request program transmitting device for receiving a request signal of the program transmitted by the terminal device, and for transmitting the program, corresponding to the

request signal of the program and stored at the transferable condition, through the communication device to the terminal device at least transmitting the request signal of the program (col. 6 lines 13-51). Furthermore, Billock shows the terminal device comprising a program information receiving device for receiving the information with regard to the program transmitted by the center device (col. 8 lines 15-67, col. 9 lines 1-67), a program receiving device, an image information generating device for generating an image information for a program selection of a user, a program request signal transmitting device for transmitting the request signal of the program selected by the user to the center device through the communication device, and a request program receiving device for receiving the program corresponding to the request signal of the program (col. 8 lines 15-67, col. 9 lines 1-67, col. 13 lines 15-67).

Regarding Claim 7, Billock shows a program transmitting/receiving system having a center device and at least one terminal device connected through a communication device to the center device (col. 3 lines 60-67, col. 4 lines 1-15). The center device comprising a program information memory device for storing an information with regard to a program generated on the basis of a schedule to broadcast a program (col. 4 lines 50-67, col. 5 lines 13-67, col. 6 lines 1-30), a program information transmitting device for transmitting the information with regard to the program to the terminal device through the communication device (col. 3 lines 3-34, col. 8 lines 35-55), a broadcasting device for broadcasting the program to the terminal device through the communication device (col. 6 lines 13-51), in accordance with the schedule, and for storing the program therein at a transferable condition to the terminal device, and a

request program transmitting device for receiving a request signal of the program transmitted by the terminal device, and for transmitting the program, corresponding to the request signal of the program and stored at the transferable condition, through the communication device to the terminal device at least transmitting the request signal of the program (col. 6 lines 13-51).

Regarding Claim 8, Billock shows the terminal device comprising a program information receiving device for receiving the information with regard to the program transmitted by the center device (col. 8 lines 15-67, col. 9 lines 1-67), a program receiving device, an image information generating device for generating an image information for a program selection of a user, a program request signal transmitting device for transmitting the request signal of the program selected by the user to the center device through the communication device, and a request program receiving device for receiving the program corresponding to the request signal of the program (col. 8 lines 15-67, col. 9 lines 1-67, col. 13 lines 15-67).

Regarding Claim 9, the method claim has been discussed with regards to the system claim of Claim 1.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 2, 3, 5, 10, 11, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Billock et al.

Regarding Claim 2, Billock further shows that the information with regard to the program includes information indicating allowance or rejection of the program, and the terminal device further comprises a viewing information transmitting device for transmitting viewing information with regard to the program received by the program receiving device through the communication device to the center device (col. 2 lines 44-50, col. 3 lines 22-34, col. 8 lines 1-10, col. 13 lines 34-67). Billock also shows a center device comprising a transmission allowance selecting device for receiving the viewing information and selecting allowance or rejection of transmitting the program (col. 2 lines 44-50, col. 3 lines 22-34, col. 8 lines 1-10, col. 13 lines 34-67). Furthermore, Billock shows that a viewer is rejected or allowed to view certain media programs and is rejected or allowed on each selection (col. 8 lines 1-10, col. 13 lines 34-67). This is equivalent to a selection updating device. Billock fails to show erasing a program from memory based on the selection of allowance or rejection. Official Notice is given that it is well known and expected in the art to erase an unused program from memory. This allows the system to free up additional memory space for other programs. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Billock with the ability to erase a program from memory so that if a person was rejected from viewing a certain program, that program would be freed from memory and another program could be put in its place.

Regarding Claim 3, Billock shows that the information with regard to the program includes viewing information, and the image information for the program selection of a user includes a display on the basis of the viewing information (col. 6 lines 59-67, col. 7 1-67, col. 9 lines 19-55, fig. 6 & 7).

Regarding Claim 5, Billock shows that the program request signal is transmitted through a communications device to the center device on the basis of information indicating allowance or rejection of transmitting the program, included in the information with regard to the program and transmitted by the center device (col. 2 lines 44-50, col. 3 lines 22-34, col. 6 lines 25-40, col. 7 lines 1-67, col. 8 lines 1-10, 35-55, col. 9 lines 20-55, col. 13 lines 34-67, col. 18 lines 1-25).

Regarding Claim 10, the method claim has been discussed with regards to the system claim of Claim 2.

Regarding Claim 11, the method claim has been discussed with regards to the system claim of Claim 3.

Regarding Claim 13, the method claim has been discussed with regards to the system claim of Claim 5.

3. Claims 4, 6, 12, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Billock et al in further view of Lerman et al.

Regarding Claim 4, Billock fails to show that the information fails to include request frequency. Billock further fails to show that the center equipment contains a calculating device for totaling the request frequency, a frequency updating device for updating the calculated request frequency, and a transmission allowance device that

selects allowance or rejection on the basis of the request frequency. Lerman shows a VOD system that uses a queue to designate the allowance or rejection of the transmission of the program. When a user makes a request, a scheduling device calculates how many requests for a program have been made, and places the user request in a line. This allows the system to reject or allow the transmission of a program based on the request frequency (col. 2 lines 5-55, col. 3 lines 25-59, col. 4 lines 15-50). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Billock with the request frequency calculating and determining system of Lerman so that the system would be able to regulate the number of users viewing a certain program and control the amount of available bandwidth.

Regarding Claim 6, Billock fails to show that the center device updates the information with regard to the program on the basis of a fact that the program is broadcast by the center device. Lerman shows a system that updates a queue when a program is broadcasted to a user (col. 2 lines 5-55, col. 3 lines 25-59, col. 4 lines 15-50). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Billock with the request frequency calculating and determining system of Lerman so that the system would be kept up to date on what users have been sent video so that their request could be removed from the queue.

Regarding Claim 12, the method claim has been discussed with regards to the system claim of Claim 4.

Art Unit: 2611

Regarding Claim 14, the method claim has been discussed with regards to the system claim of Claim 6.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher R Nalevanko whose telephone number is 703-305-8093. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on 703-305-4380. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Christopher Nalevanko
AU 2611
703-305-8093

cn


VIVEK SRIVASTAVA
PRIMARY EXAMINER